

NOT VOTING—4

Chambliss Kirk
Corker McCain

The motion was rejected.

MORNING BUSINESS

Mr. BAUCUS. Madam President, I ask unanimous consent that the Senate proceed to a period of morning business until 5 p.m., with Senators permitted to speak for up to 10 minutes each; further, that the time from 1 p.m. to 2 p.m. in morning business be reserved for the majority.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. UDALL of New Mexico. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ULTRALIGHT AIRCRAFT SMUGGLING PREVENTION ACT OF 2012

Mr. UDALL of New Mexico. Madam President, I rise today to discuss H.R. 3801, the Ultralight Aircraft Smuggling Prevention Act of 2012, and I urge the Senate to pass this legislation today. Passing this bill will not only help to secure our southwest border, but it also affords us the opportunity to honor an incredible colleague.

I had the privilege of serving with Congresswoman Gabby Giffords in the House of Representatives, and she is the force behind this legislation. She originally introduced it in 2010, before the senseless act of violence that took place, and she won its passage. But the Senate failed to take it up.

Over this past year, we have been working with Gabby's staff, and I was honored to introduce her bill in the Senate with Senators HELLER, BINGAMAN, and FEINSTEIN. It passed by unanimous consent in December but was held up in the House because of a procedural issue. This allowed Gabby to reintroduce it in the House this week with Congressman JEFF FLAKE. Yesterday, as we all bid Gabby an emotional farewell, the House overwhelmingly passed it by a vote of 408-0.

I commend the House leadership for working to make sure this important legislation passed as Gabby's final legislative act before resigning. I want to especially say how honored I am to have worked on this legislation with her.

Like all Americans, I have watched in awe at Gabby's courage and her remarkable grace. She inspires us all. She represents the best of our Nation. Dr. Martin Luther King once said that darkness cannot drive out darkness; only light can do that. Gabby is truly a shining light to all who know her.

The Ultralight Aircraft Smuggling Prevention Act is a testament to Gabby's commitment to securing our borders from illegal activity. A new trend in drug smuggling is to fly a one-person ultralight aircraft over the border to drop drugs. Hundreds are flown across the southwest border each year. Each one can carry hundreds of pounds of narcotics.

Because ultralights are not categorized under existing law as aircraft by the Federal Aviation Administration, they do not fall under the provisions of the Tariff Act of 1930. This means a drug smuggler piloting an ultralight is subject to weaker criminal penalties than one who uses a small plane.

Ultralight presents a unique challenge for Border Patrol and prosecutors. Our legislation will close any unintended loopholes. It will give our law enforcement and prosecutors the additional tools they need to combat drug smuggling. It will also add an attempt and conspiracy provision to the aviation smuggling law. This enables prosecutors to charge people other than the pilot who are involved in aviation smuggling. It gives prosecutors a new tool to go after the ground crews who aid pilots as well as those who pick up drugs that are being dropped off in the United States.

This bill will also direct the Department of Defense and the Department of Homeland Security to establish and collaborate in identifying the equipment and technology for border protection to detect ultralights. The ultimate purpose of this legislation is to make our communities safer, and it is fitting that Gabby, from the very beginning, has been so instrumental in making it happen. I also want to acknowledge the hard work of her staff who worked on this bill tirelessly every day. Peter Ambler is one of her staff members who has been key. I know Gabby's staff is very dedicated to her, and I know Gabby's perseverance to advance her legislative priorities during her recovery demonstrate what a good public servant she is.

Gabby, we know you will be back. But until then, we wish you and Mark all the very best, and we thank you for your extraordinary service to our Nation.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CARDIN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS APPOINTMENTS

Mr. GRASSLEY. Mr. President, I addressed the Senate recently on President Obama's recess appointments, and he did this when the Senate was not in

fact in recess. I described at length why this was an outrageous and unconstitutional power grab. However, President Obama's decision to bypass the constitutional advice and consent of the Senate is not an isolated incident by the President. It is merely the latest escalation in a pattern of contempt for elected representatives of the American people and the constitutional separation of powers. This pattern has become more apparent since the last election when public opinion turned against the direction that President Obama was trying to take the country.

When the President's party in 2009 and 2010 had an overwhelming control of both Houses of Congress, he was able to pursue his agenda with only the slightest of lip service to the objections from congressional Republicans because we were very much in the minority, and, of course, we believe we were representing millions of Americans whose views were in opposition to President Obama's views. In 2009 and 2010, President Obama could in fact govern more like a Prime Minister in a European parliament, where the leader of the party in power dictates the policy to be rubberstamped by that parliament.

Since the 2010 election, that is no longer the case. There was a tremendous voter backlash against both the style and substance of the President's agenda. A groundswell of Americans became convinced their government was out of touch, and they demanded to be heard. The President's party in the Senate is now well below the supermajority necessary to pass legislation without consulting the minority party, and that is the way it was intended for the Senate to work. Moreover, there is now a new majority in the House of Representatives trying to chart a new course based on the concerns that so many voters expressed in the last election.

Rather than accept the message of the 2010 election and the fact he is faced with a Congress that is no longer a rubberstamp, the President has decided that he does not need Congress at all. Imagine that. In fact, he has even said so.

In October, upset that Congress would not pass his latest stimulus bill exactly as he had proposed, the President launched a media campaign around the tag line, "We can't wait for Congress." Under this banner he has announced executive actions for everything from mortgage and student loans, summer jobs for youth, and new fuel economy standards.

A President being frustrated with Congress is nothing new. We all know that from history. What is more remarkable is the notion that the President, however, can act independently of Congress. "Where they won't act, I will," the President has said.

Article I, section 1 of the Constitution of the United States says:

All legislative Powers herein granted shall be vested in a Congress of the United States,